

I want to take this opportunity to thank the Commission for allowing me to comment on this extremely important issue.

I am both a FOTA television user as well as a Construction Permit holder of an LDTV station and so have a vested interest in this matter.

I appreciate the goal of the National Broadband Plan, specifically, "Because of the continued importance of over-the-air television, the recommendations in the plan seek to preserve it as a healthy, viable medium going forward, in a way that would not harm consumers overall...." However, what is being proposed in Docket 10-235 could have the opposite effect and greatly restrict the future potential of OTA DTV if not destroy it altogether.

At issue is whether there really is a spectrum crisis. A recently released report by the NTIA announced that 2,200 MHz have been identified as usable for wireless broadband with 115 MHz available within the next five years. The 2,200 MHz figure greatly exceeds President Obama's goal of 500 MHz. The NBP itself notes that 547 MHz is already allocated to broadband of which only 170 MHz is being used so far, leaving 377 MHz lying fallow. According to the Telecom Industry Association growth in wireless data usage in US business, which comprises 63% of wireless spending, is expected to slow down, from 5.2% in 2009-10 to 2.5% by 2013-14. Along with this is a similar downward trend in handset purchases by businesses.

In a recent interview, Verizon CEO Ivan Seidenberg said that he thinks technology will solve rising mobile broadband demand and that the FCC should leave broadcasters alone. In Sprint's comments to the FCC on the NBP they stated that estimates of a spectrum shortage "may overstate the true need for more spectrum allocations" because "advances in technology can effectively help increase spectrum supply, thereby moderating the need for new allocations."

As noted above, the perceived spectrum shortage is based, in part, on the premise that wireless technology will remain static and never evolve to more efficiently use existing spectrum. But such is predicted to not be the case and we can already see an example of it. The newest iPhone iOS 4 operating system uses a technology called Network Controlled Fast Dormancy (NCFD) which is designed to reduce network congestion by keeping the smartphone in an intermediate state instead of alternating between idle and always active on the network. Undoubtedly we will see more such innovation in future handheld products and OS's.

Assuming that there is or will be a spectrum shortage, why not let broadcasters themselves negotiate with wireless providers and lease portions of their spectrum? After all, the basic infrastructure is already in place, no Congressional approval for an auction would be needed and the government would receive continuous payments from broadcasters as they lease out spectrum for auxiliary

services. If DTV channels consist of "empty boxcars" as the FCC Chairman asserts, why not let broadcasters fill them by leasing spectrum to broadband.

As the holder of a CP for an LDTV station I am especially concerned about the future of low power television as it relates to Docket 10-235. Particularly troubling is the goal to make VHF usable for DTV. While the problems of DTV on the VHF band may or may not be solved with an increase of power and change in antenna configuration, LPTV stations would be the least likely to afford either the equipment, the installation or power requirements to utilize them. Should LPTV be confined mostly to the VHF band it will likely result in further audience erosion and more of these stations going dark.

Many LPTV stations are owned by minorities and women because LPTV is usually the easiest and least costly entry point in which these two groups can own broadcast properties. Also, most LP stations (excluding translators) originate some local programming that is very specialized to the community they serve as well as provide competition to other TV stations and media outlets in the area. Most LPTV stations are small businesses and many provide local employment. As such the service is worthy of protection. The idea of channel sharing, while novel, would severely hamper low power broadcasters from taking full advantage of the ATSC standard within the 6 MHz channel bandwidth including adding HD, multiple sub-channels and/or mobile DTV.

According to a recent CBA survey 75% of all LPTV stations are not profitable and 34% of station owners identified no MVPD carriage as a serious deterrent to their station's profitability. If the FCC's goal is that LPDTV eventually channel share with either low power or full-power stations then giving these stations must-carry rights could greatly assist them to remain solvent and competitive with other media. Such a must-carry right could be confined to cable providers within the station's COL and based on a station originating a minimum of one hour of local, community-focused programming per week. Also, I would recommend eliminating Class A stations and give all LPDTV stations protection privileges similar to Class A. The arrangement of channel sharing should also be under the supervision of the FCC so that no station is without a channel, no station is without at least similar coverage to what it had prior to channel sharing and no station is subject to "lease gouging" by the station who owns the transmitter and/or site or some other anti-competitive practice by the host station. I would also recommend that a fund be established that would assist LPTV and small market stations to purchase mobile DTV equipment.

Recommendations:

1. Abandon VHF altogether for broadcast television. Give VHF channels 2-6 to broadcast FM radio, move public safety channels 14-20 down to channels 7-13, move radio astronomy from channel 37 to either channel 14 or 51. This will provide broadcast TV a single contiguous band.

2. Should LPTV be forced to channel share, make such an arrangement equitable by allowing LPTV stations MVPD must-carry privileges provided the station is an originating station and will produce at least one hour a week of local, community-based programming. Also the FCC should coordinate such channel sharing so that it occurs in an orderly, fair manner.
3. LPTV, Class A and full power stations that channel share should also be allowed to have a portion of another open band (part of the 2,200 MHz of usable spectrum identified in the NTIA study) so that these stations can develop mobile DTV using OFDM or another future technology. These open channels should be automatically assigned by the FCC as companion channels to any stations that opt to channel share or are required to do so.
4. Given the highly disruptive nature of what Docket 10-235 proposes, construction permits for TV broadcast stations should automatically be extended at least an additional 12 months to allow permit holders time to plan and implement the changes.
5. Allow broadcasters themselves to negotiate with wireless providers for leasing spectrum. Such an arrangement would not need Congressional approval and would result in an on-going revenue stream for the government.
6. Provide a fund that will assist LPTV and small market stations in purchasing the necessary equipment for mobile DTV.

Ultimately I urge the FCC to reconsider the recommendations of this NPRM. There is simply no verifiable proof of a spectrum shortage, now or future. And if such a shortage does exist or occur that the FCC through its Office of Engineering look at other bands that offer favorable characteristics similar to UHF but are underutilized or unused.

Forcing FOTA television viewers to pay for TV by subscription is contrary to the spirit of free and open airwaves to which US citizens have long enjoyed. Broadcasters who have spent billions of dollars in the DTV transition are just now beginning to explore the opportunities of what digital broadcasting has to offer; mobile DTV, multiple channels, 3-D DTV and future data services--most of which are or will be ad-supported and free. They should be allowed to explore and exploit these opportunities unhindered for the benefit of all consumers and for the future health of the TV broadcast industry.

Thank you for your time.

